

Zoning Text Amendment No: 05-19
Concerning: Use and Occupancy
Permits and Site Plan Enforcement
Draft No. & Date: 1 – 10/28/05
Introduced: November 1, 2005
Public Hearing: 12/6/05; 7:30 p.m.
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Council President at the Request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- adding a definition for the term “Zoning Administrator”
- amending the definition of Director to include the Zoning Administrator
- requiring use and occupancy permits for one-family detached dwellings;
- requiring the Planning Board to forward to the Department of Permitting Services the Board’s Opinion and all site plan amendments;
- assigning to the Department of Permitting Services responsibility for enforcing all features of the site plan; and
- authorizing the Executive to adopt regulations necessary to ensure site plan compliance.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 59-A-2	“Definitions and Interpretation”
Section 59-A-2.1	“Definitions”
Division 59-A-3	“Building and Use-and-Occupancy Permits; Registration of Certain Uses”
Section 59-A-3.21	“Use-and-Occupancy Permit”
Division 59-D-3	“Site Plan”
Section 59-D-3.4	“Action by Planning Board”
Section 59-D-3.5	“Enforcement of Site Plan”

EXPLANATION:

Boldface indicates a heading or a feigned term.

Underlining indicates text that is added to existing laws by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

*** indicates existing law unaffected by the text amendment

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec.1. Division 59-A-2 is amended as follows:**

2 **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

3 **59-A-2.1. Definitions.**

4 * * *

5 **Administrator, Zoning:** The individual in the Department who has the
6 responsibility for administering, enforcing and interpreting the zoning ordinance,
7 reviewing plans for compliance with the Zoning Ordinance and site plans prior to
8 permit issuance, during and after construction and responding to citizen
9 complaints.

10 * * *

11 **Director:** The director of the Department of Permitting Services, the Director's
12 designee, or the Zoning Administrator.

13
14 **Sec. 2. Division 59-A-3 is amended as follows:**

15 **DIVISION 59-A-3. BUILDING AND USE-AND-OCCUPANCY**

16 **PERMITS: REGISTRATION OF CERTAIN USES**

17 * * *

18 **59-A-3.2. Use-and-occupancy permit.**

19 **59-A-3.2.1. Generally.**

20 A use-and-occupancy permit certifying compliance with this Chapter must be
21 issued by the Director before any building, structure, or land can be used or can be
22 converted, wholly or in part, from one use to another. However, a use-and-
23 occupancy permit is not required for:

- 24 (a) [A building used exclusively as a one-family, detached dwelling or for] Uses
25 incidental to the residential use. A registered home occupation or a no-
26 impact home occupation is deemed to be incidental to the residential use. A
27 registered home health practitioner's office is not incidental; it requires a

use-and-occupancy permit unless it is subject to the exemption provisions of Section 59-A-6.1(d)(9). The use-and-occupancy permit cannot be issued unless the practitioner has signed the Affidavit of Compliance required by Section 59-A-3.42.

Sec. 3. Division 59-D-3 is amended as follows:

DIVISION 59-D-3. SITE PLAN.

* * *

59-D-3.4. Action by Planning Board.

* * *

(c) Upon approval, the site plan must be:

(1) Signed by the applicant agreeing to execute all the features and requirements that are part of the site plan;

(2) Signed by the chairman of the Planning Board, or his designee, certifying Planning Board approval of the site plan; and

[(3) Forwarded to the Department for reference in issuing building permits under Section 59-D-3.5.]

(d) The Planning Board must forward to the Department its Opinion, the site plan, and any site plan amendments for reference in issuing building permits and for enforcing site plan requirements.

59-D-3.5. [Effect] Enforcement of site plan.

In the case of any land in a zone requiring site plan approval, as provided in article 59-[C]D, or any special exception for which site plan approval is a condition, as provided in sections 59-A-4.22 and 59-G-1.22(b), a record plat required by chapter 50 of this Code, title “Subdivision of Land,” must not be approved unless it is in strict compliance with a site plans approved as provided by this division 59-D-3.

No sediment control permit, building permit or use-and-occupancy permit may be issued unless it is in strict compliance with an approved site plan. All the requirements and features that are part of the approved site plan must be executed in accordance with the applicant's development program required by 59-D-3.23(m). A performance bond securing compliance with and full execution of all features of the site plan may be required to be posted with the planning board in an amount established by the planning board. In such cases, no sediment control permit, building permit or use-and-occupancy permit may be issued until this bond is posted. The Department is responsible for enforcing compliance with all features of the site plan during both plan review for building permits and during construction and the Department may take all necessary actions to ensure compliance including, but not limited to, stop work orders, corrective orders and civil penalties.

Sec. 4. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council